Filed 2/28/19 Marriage of Mapp and Williams CA1/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re the Marriage of MILTON MARVIN MAPP and PATRICIA ANN WILLIAMS.	
MILTON MARVIN MAPP, Respondent, v. PATRICIA ANN WILLIAMS, Appellant.	A153058 (Alameda County Super. Ct. No. HF17869737)

In July 2017, respondent Milton Mapp, by his conservators, petitioned for nullification of his October 2010 marriage to appellant Patricia Williams on the grounds of unsound mind and force. Following a hearing, the trial court granted the petition, finding that Mapp lacked the mental capacity to consent on the date of the marriage, a finding based in part on evidence that in 2007 he had been diagnosed with dementia and that as of September 2010 he was unable to make complex decisions and had "severe memory impairment." Williams filed a motion for reconsideration, which the court denied. Williams appeals, and we affirm.

BACKGROUND

Preliminary Observations

California Rules of Court, rule 8.204 (rule 8.204) mandates that an appellant's opening brief "[p]rovide a summary of the significant facts limited to matters in the

record." (*Id.*, rule (a)(2)(C).) Despite this rule, Williams has filed an opening brief containing a statement of facts that consists in its entirety of the following paragraph: "The appellant and the respondent were married on October 28, 2010. At the time of the marriage, the respondent had been appointed a conservator, however, during the hearing to annul the marriage there was no direct evidence presented to suggest that the resident [*sic*] lacked the capacity to marry. [Citation.] The basis of the request to annul the marriage was presumably based on the fact that the respondent was a conservatee. The order nullifying was granted and Patricia Williams-Mapp is appealing. (Alameda County Court Order, dated 11/17/2017, case no. HF17869737). The appellant and the respondent had been married and/or living together for over 25 years. [Citation.] During the hearing to nullify the marriage, the court insinuated that the appellant was high or under the influence and the judge refused to hear any of the appellant's witnesses, individual[s] who attended the wedding and could attest to the respondent's state of mind. [Citation.] The conservators are attempting to annul the marriage in an effort to deny the appellant of her marital rights that were the result of a 25 year relationship." This short synopsis fails to satisfy Williams's obligation under rule 8.204(a)(2)(C).[1]

That said, respondents' brief hardly fares better. While their statement of facts is, at nearly four pages, more comprehensive than Williams's, it contains a mere six record citations. This fails to comply with rule 8.204(a)(1)(C), which requires that each brief "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears." Where facts are unsupported by citation to the record, we are at liberty to disregard them. (*Baron v. Fire Ins. Exchange* (2007) 154 Cal.App.4th 1184, 1186, fn. 1.)

[1] Williams filed her brief here in propria persona, as she did below, although counsel substituted in for the oral argument. Williams's pro per status does not excuse her from complying with the rules governing appellate briefs, as "the in propria persona litigant is held to the same restrictive rules of procedure as an attorney." (*Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267; accord, *Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543.)

What follows is a proper summary of the factual and procedural background that is supported by the record.

Mapp's Petition for Nullity of His Marriage to Williams

On July 31, 2017, a petition was filed on behalf of respondent Milton Mapp for nullity of his October 28, 2010 marriage to appellant Patricia Williams. The petition was filed by Winifred Cabiness and Brenda Woods, who were Mapp's daughters and his conservators (sometimes collectively referred to as the conservators). The cited grounds for the petition were unsound mind and force.

Concurrent with the filing of the petition, Mapp, again through the conservators, filed a request for an order of nullity of voidable marriage based on unsound mind and force. The facts supporting the request were set forth in an attachment that represented the following:

In 2010, Cabiness and Woods had filed for a conservatorship of their father because they believed Williams was not properly caring for him. On October 12, 2010, they were appointed temporary conservators of his person and estate. In response to this, on October 28, Williams took Mapp to Reno and forced him to marry her.

On October 13, 2016, Cabiness received several telephone calls and messages from an adult protective services (APS) social worker, who informed Cabiness she had called the police so APS could gain entry into Mapp's condominium. Once inside, the social worker had observed that Mapp was weak and disoriented, had not eaten in several days, and was thirsty and appeared to be dehydrated. The condominium was filthy, unsafe, and uninhabitable. The social worker had called an ambulance, and Mapp was taken to the hospital. She told the conservators she would not allow him to return to the condominium and asked them to take him to their home so they could care for him and keep him from further harm. That same day, Williams was arrested on charges of battery on a spouse and cruelty to an elder/dependent adult.

On June 16, 2017, Cabiness and Woods were appointed conservators of Mapp's person, and Woods the conservator of Mapp's estate.

Specifically as to the request for nullity based on unsound mind, the conservators represented that Mapp, who was 90-years-old, suffered from severe dementia, having been diagnosed with dementia in 2007, and was unable to properly provide for his health and personal needs, including food, clothing and shelter. According to the conservators, Williams had taken him to Reno "to marry him only to strengthen her position living in [his] house during the 2010 conservatorship proceedings."

Appended to the attachment was a September 21, 2010 capacity declaration signed under penalty of perjury by Mapp's doctor, Wilson Tse, M.D. Dr. Tse attested that Mapp was able to give basic consent to medical treatment but was not able to make complex decisions. He stated that Mapp suffered from dementia and had "severe memory impairment." Also appended was an August 13, 2007 letter written by Dr. Tse and addressed to whom it may concern, in which he stated: "Mr. Mapp has been my regular patient for the past 6 years. He has had progressive memory loss over the years and becoming more significant in the past 2–3 years with signs and symptoms of dementia. He is getting ongoing follow-up and treatment [*sic*] but is at a stage where he needs assistance with managing his finances and other daily affairs. He also has other medical problems that require supervision."

As to the request for nullity on the basis of force, the conservators stated that the marriage was "contracted against Milton's will," providing the following details:

"22. In October 2010, Milton was admitted to the emergency room for serious health issues. Because of those health issues, at the conclusion of his ER visit, Milton was told to return the next day. Instead of returning Milton to the hospital in accordance with medical advice, Respondent took Milton to Reno to marry him.

"23. Prior to the 2010 trip to Reno, Cabiness had just spent several hours with Milton at Kaiser ER, in Oakland, for observation as one of his legs was severely swollen. The ER doctor advised that he return first thing the next morning so the radiologist could examine and rule out complications, such as blood clots due to the swelling and poor circulation. Cabiness showed the ER report to Respondent and asked her if she felt the event that they were going to was more important than his health and well-being.

Respondent replied very directly, 'Oh this trip is important; we'll take care of his leg when we get back'.

"24. Milton was under unbelievable influence to ignore such a serious health issue. He has had to wear compression socks to massage his legs due to poor heart pump and fluid pooling in his legs, so the ride seated in a car to Reno was a serious risk to his life.

"25. Milton was taken to Reno to get married without consenting to that marriage, and without the ability to resist that marriage."

Williams's Opposition to the Petition for Nullity

On August 17, 2017, Williams filed a form response to Mapp's petition. She denied Mapp was of unsound mind or was forced into the marriage, further stating: "The respondent would like to point out to the court that the petitioner is (medically) unable to represent himself and his conservators are not attorneys, thus, this petition should be dismissed. Further, if the court allows this petition to stand, the respondent would point out that in October of 2010, petitioner's doctor indicated that he (the petitioner) was capable of giving medical consent, therefore, there is no evidence that petitioner could not consent to marriage. The respondent and petitioner have been together for over 25 years and married for nearly 7 years. There has been no expert evidence, or any other evidence, offered by the conservators that indicate Milton Marvin Mapp did not consent to this marriage. However, presently, he does have dementia and does not understand these proceedings."

In a supporting declaration, Williams testified: "[T]he marriage between the petitioner and respondent was valid, his doctor indicated that in 2010, petitioner was capable of giving basic consent. Petitioner's conservators have offered no evidence to indicate an invalid marriage, just a non expert report from a doctor, that in fact indicates petitioner was capable of consenting to marriage in 2010. Presently, his dementia has worsened, making it impossible for him to request this order. This entire action must be dismissed, a man of unsound mind, cannot legally represent himself."

Hearing on Mapp's Petition

On October 5, 2017, Mapp's petition came on for hearing. The court began by requesting any documents showing Mapp's incapacity at the time of the marriage. Counsel for the conservators, who had substituted in a month before the hearing, identified Dr. Tse's September 24, 2010 capacity declaration. The court queried why, if the conservators were temporary conservators in October 2010, the request for nullity was not brought until 2017. Counsel explained that once Williams took Mapp to Reno and married him, she told the conservators she was going to care for Mapp and "completely cut [them] off" from Mapp. Their temporary conservatorship expired in December 2010. Over the years since then, they had repeatedly contacted APS to figure out what was going on with their father, to no avail. In October 2016, however, APS received reports Mapp was being abused and obtained entry into his home, where they found that he was not being fed and was severely dehydrated, and the house was uninhabitable. As a result, Williams was arrested for battery against a spouse and cruelty to an elder, and Mapp went to live with his daughters, where he was still living at the time of the hearing. Cabiness and Woods were again appointed Mapp's conservators in June 2017. Concerning the current state of his health, the conservators said he suffered from advanced dementia, Alzheimer's, and a heart condition.

The court inquired of counsel what had occurred as a result of Williams's arrest. She indicated that Mapp did not press charges, and she believed the case had been dismissed. At the court's request, counsel produced an October 13, 2016 police report from the incident resulting in Mapp's hospitalization, which the court summarized as follows: "According to the report, the police arrived on October 13th. They were investigating a claim of elder abuse. Initially, the Respondent, Ms. Williams, refused to let the officers speak with Mr. Mapp and initially refused to allow the officers to see the inside of the home to evaluate whether it was fit for Mr. Mapp to be living there. Ms. Williams admonished Mr. Mapp not to speak to the officers. Eventually, the officers did gain entry into the home, found that there was no place for Mr. Mapp to sleep. There was a mattress with no sheets, blankets or pillows. It appears . . . Ms. Williams was not

cooking for Mr. Mapp. The home was extremely dirty, filled with trash. Mr. Mapp indicated that he was only being fed once a day. Based on communication the police had with Adult Protective Services, Ms. Williams had been physically abusive with Mr. Mapp. That the home was a health and safety hazard and that he needed to be removed. Ms. Williams was arrested for cruelty to an elder or dependent person, along with battery. Mr. Mapp was transported to the hospital and indicated he did not want to press charges against Ms. Williams. Officers noted that Ms. Williams does not permit Mr. Mapp's daughters to see him."

The court then turned to Williams and asked why she believed Mapp had the capacity to marry on October 28, 2010. Williams responded, "We had a significant discussion about the marriage. We had been together for at least 25 years. We were married, I would say, seven years." The court asked her a follow-up question about the date of the marriage, and Williams responded that it was October 30. When a spectator in the courtroom interjected "September," the following exchange occurred between the court and the spectator:

"THE COURT: Ma'am, you cannot speak.

"A SPECTATOR: Well, I was there, though.

"THE COURT: So, ma'am, if you can't remain quiet, you're going to have to step outside of the courtroom; do you understand?

"A SPECTATOR: Yes, I do. But I was trying to give you—

"THE COURT: Okay. Can you please escort her out of the courtroom."

The spectator was then apparently escorted out of the courtroom without incident, and the court returned its attention to Williams, asking her when and how she and Mapp met. As Williams was describing how they met, the court interrupted her, and this exchange occurred:

"THE COURT: Ma'am could you look at me for a second.

"THE RESPONDENT: Okay.

"THE COURT: It looks like you're having a hard time putting all your thoughts together. Are you under the influence of anything today?

"THE RESPONDENT: Oh, no.

"THE COURT: Have you been drinking at all today?

"THE RESPONDENT: Never. No.

"THE COURT: Do you have any medical condition that would make it difficult for you to articulate your thoughts here?

"THE RESPONDENT: Yes. Yes.

"THE COURT: Can you tell me what that is?

"THE RESPONDENT: I have a problem getting my words out, and it's been from a slight ailment that I have—I have had. But it doesn't affect my, you know, being with the gentleman.

"THE COURT: I just want to be sure. Are you able to understand everything I'm saying to you?

"THE RESPONDENT: Yes.

"THE COURT: And do you feel like you understand what's happening in this proceeding?

"THE RESPONDENT: Yes. And I would like to say that Harry—I mean, Milton—and I have had a great relationship together. We've been together 25 years. We've established a lot. And I've helped him in a lot of incidents that have really happened between he and the daughters."

The court asked Williams if she knew Mapp had been diagnosed with dementia by the time they got married. Williams responded, "He hadn't—as a matter of fact, this diagnosis that—what's his name?—Mr. Tse had written, this is a lot of good reports. These aren't bad reports. These are good reports. They don't have any reports on the neurologist, and that's what really tells what the—what he really has. . . . He hadn't seen none of those." The court asked Williams whether she knew Mapp was under a conservatorship when they got married, and she responded that she did not think he was. Asked specifically about Dr. Tse's September 2010 capacity declaration indicating Mapp was, as of September 2010, incapable of making complex decisions, Williams reiterated that it was a "good report" because it established Mapp had the necessary cognitive

ability to decide to get married. Asked why she believed that, Williams answered, "He was the main person of his home. He was the person who provided me with what I needed in order to help him. He was the person that did mostly everything."

The court asked Williams whose idea it was to get married, and she said it was Mapp's idea. She described how they traveled to Reno in a car with Joyce Gonzales (apparently the spectator who had been escorted out of the courtroom) and Eugene Mapp (Mapp's brother). At the time they married, Mapp was 82 or 83, and Williams was 58.

The court asked Williams if she had any other information she could share supporting her belief that Mapp had the capacity on October 28, 2010 to get married. When Williams responded by mentioning Mapp's first wife and daughters, the court interrupted her to reiterate its question, which Williams then answered this way: "Well, I have a lot that I could add to the funeral—I mean, to this petition. But nullity, 'If a nullity proceeding is not commenced within the appropriate time period, the marriage remain [*sic*] valid and is no longer subject to a judgment of nullity on these grounds. [¶] To have a sound mine [*sic*], there is a rebuttable person [*sic*] have the capacity to make the decision to marry. [¶] And force is a party whose consent to a marriage was obtained by force, may bring a nullity proceeding within four years after the marriage.' And all of that has taken place and it's been already four years have passed and all the other—five years that's passed."

Counsel for the conservators advised the court that Williams was present at the conservatorship hearings and was thus aware in 2010 that a conservatorship had been granted.

The trial court then granted Mapp's request for nullity of his marriage to Williams, providing the following reasons:

"So the court grants the Petitioner's request for nullity, and the court finds that the grounds have been met under Section 2210, sub part A,[2] that this has been brought on behalf of Mr. Mapp.

"And the court finds, based on a number of factors and information that has been provided, that Mr. Mapp was of unsound mind to enter into marriage in October of 2010. This includes his dementia and his inability to make complex decisions that had been determined by a physician the month prior, in September of 2010, the conservatorship that was already put in place by then.

"Added to the fact—his advanced age, in and of itself, is irrelevant to the determination; but when looked in concert with that, and the fact that he was in the process of getting medical treatment when that treatment ceased, and he was removed for the purposes of the marriage, all of those things together indicate to the court that he did not have the adequate capacity to enter into marriage in 2010.

"Furthermore, there is nothing that indicates that he has regained capacity and elected to remain in the marriage since then. Dementia tends to be a continuing debilitative condition; it does not get better as someone gets older. If you add Alzheimer's on to that, and then particularly when the court takes into consideration the law enforcement report from when Mr. Mapp was removed from the home in 2010,[3] it is clear that he was not only in really deplorable conditions at that time and was not being cared for, but that he did not have the capacity to be able to stand up for himself at that point to get the help that he really desperately needed. So the court will grant the nullity."

Williams's Motion for Reconsideration

On October 18, Williams filed a motion for reconsideration of the court's order pursuant to Code of Civil Procedure section 1008. The motion provided this claimed basis for reconsideration: "There was no expert testimony by any medical providers, and

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[2] The court's reference to subdivision (a) was a misstatement, as subdivision (c) identifies unsound mind as a ground for nullity.

[3] This was again a misstatement, as APS intervened in 2016.

the court apparently assumed that the respondent was under the influence of alcohol and/or drugs, thus not having any credibility in respondent's testimony. Further, the court ejected respondent's witness from the court and said witness was unable to testify to the fact that she witnessed the marriage and could offer testimony that was [*sic*] of sound mind when the wedding ceremony took place. Also, petitioner's brother was a witness at the marriage and the respondent could not locate him until after October 5, 2017. Petitioner's brother is also prepared to offer testimony as to his brother's state of mind at the time of the wedding. Respondent would also like to point out a fact that she believes the court overlooked, that the medical records submitted did indicate that the petitioner was capable of consenting to medical treatment, therefore, it should be assumed that he was capable of consenting to marriage."

In support, Williams submitted a declaration attesting as follows:

"2. I believe that the court did not view my testimony as credible because the court thought that I may have been under the influence of drugs or alcohol. I was not under the influence of any substance. I attach a copy of a recent drug screening.

"3. The court ejected my witness, who attended the wedding of the petitioner and me.

"4. I just recently located another witness who attended the ceremony, the petitioner's brother.

"5. I am seeking to obtain medical proof that the petitioner was capable of consenting to marriage on the date we were married."

On November 2, the conservators filed a response to Williams' motion. They argued she had not offered any new evidence, facts, circumstances, or law that was not already presented at the hearing on October 5. They explained that the court's decision was based primarily on the fact that they were Mapp's conservators at the time of the marriage and on Dr. Tse's capacity declaration that indicated Mapp suffered from severe dementia, was only able to give basic consent regarding medical treatment, and was not of sound mind at the time of the marriage. They also noted that the court had heard testimony that Mapp had been treated in the emergency room for serious health issues the

day before the marriage took place and had been instructed to return the following day, but instead Williams risked his life by taking him on a long car ride to Reno. And on October 13, 2016, APS had intervened and found Mapp in an uninhabitable apartment having not eaten for several days, resulting in Williams' arrest on charges of battery on a spouse and cruelty to an elder/dependent adult.

The conservators argued that Williams had an opportunity to address the relevant events at the October 5 hearing. Instead, when asked whether she was aware the conservatorship was in place at the time of the marriage, she "committed perjury by answering in the negative, despite the fact that she both opposed the conservatorship and appeared at the hearing." Additionally, they argued that throughout the hearing, Williams's witness constantly stood up from the audience and attempted to coach Williams on her testimony, interrupting the proceedings to the point that she was ejected from the courtroom.

Finally, the conservators noted that while Williams was attempting to provide testimony from individuals who were present during the wedding, none of the witnesses was a medical expert who could contradict Dr. Tse's capacity declaration.

Hearing on Williams's Motion for Reconsideration

On November 16, 2017, Williams's motion came on for hearing. The hearing was extremely brief, with the court asking at the outset if anyone had anything to offer beyond what was in the papers. While counsel for the conservators said she did not, Williams indicated she would like to say "certain things on the matter." She was unable to articulate a coherent position, however, and the court, after making several attempts to understand what she was trying to convey, told her, "Ma'am, what I will tell you, unless you have something fundamentally different to offer than what you offered before—and I've reviewed what you have filed and I do not see it. When the Court heard this case before, I was deeply troubled by the gross acts of abuse and neglect that occurred. I'm really quite surprised at this point that there has not been a criminal investigation. [¶] So I have no intention at this juncture of reversing the orders that I previously made. I'm quite surprised, actually, that you filed a motion for reconsideration."

With that, the hearing concluded, and the following day the court entered a judgment of nullity based on unsound mind.

Williams filed a timely notice of appeal.

DISCUSSION

Applicable Law and Standard of Review

Family Code section 2210 provides that a marriage is voidable and may be adjudged a nullity if one of six conditions existed at the time of the marriage, including that "Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as his or her spouse." (Fam. Code, § 2210, subd. (c).)

As to the applicable standard of review, Williams contends we are to review an order of nullity for an abuse of discretion, generically claiming that "[a] trial court's decision to grant or deny orders is reviewed for abuse of discretion." In support, she cites a myriad of cases, none of which concerns an order granting (or denying) a petition for nullity of a marriage. The conservators apparently agree with Williams, as they argue the trial court did not abuse its discretion in granting Mapp's petition. They cite no authority, however, confirming that that is the applicable standard of review.

In fact, courts typically review such orders for substantial evidence. (See, e.g., *In re Marriage of Ramirez* (2008) 165 Cal.App.4th 751, 756 ["We review the judgment of nullity or a decision regarding the validity of a marriage under the substantial evidence standard of review"], overturned on other grounds in *Ceja v. Rudolph & Sletten, Inc.* (2013) 56 Cal.4th 1113, 1126; *In re Marriage of Liu* (1987) 197 Cal.App.3d 143, 155 [rejecting appellant's claim that judgment annulling her marriage was not supported by substantial evidence]; *Patillo v. Norris* (1976) 65 Cal.App.3d 209, 216 ["The question is whether there is substantial evidence to support the trial court's finding"].) And where the facts in a given case are undisputed, application of Family Code section 2210 to those facts presents a pure question of law subject to de novo review. (*In re Marriage of Seaton* (2011) 200 Cal.App.4th 800, 806; Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2018) ¶ 8.146.10, p. 8-125.)

Consistent with the foregoing authorities, we apply the substantial evidence standard here.

Substantial Evidence Supports the Trial Court's Finding that Mapp Was of Unsound Mind at the Time of the Marriage

"Substantial evidence is evidence that a rational trier of fact could find to be reasonable, credible, and of solid value. We view the evidence in the light most favorable to the judgment and accept as true all evidence tending to support the judgment, including all facts that reasonably can be deduced from the evidence. The evidence is sufficient to support a factual finding only if an examination of the entire record viewed in this light discloses substantial evidence to support the finding." (*Pedro v. City of Los Angeles* (2014) 229 Cal.App.4th 87, 99; *Goldman v. Goldman* (1959) 169 Cal.App.2d 103, 108–109.) We easily conclude the trial court's finding is supported by evidence that is "reasonable, credible, and of solid value." That evidence includes Dr. Tse's August 2007 letter stating that Mapp suffered from dementia; his September 2010 capacity report finding that Mapp suffered from "severe memory impairment" and lacked the ability to make complex decisions; and testimony that Mapp was suffering from a serious medical condition the day before the marriage and was advised to return the following day for further treatment but was instead driven to Reno to get married. All of this demonstrated that while Mapp may have had the capacity to consent to basic medical treatment, as Dr. Tse opined, he lacked the mental capacity to consent to something as significant and complex as marriage, that is, "to understand the nature of the marriage contract, its duties and responsibilities." (*Goldman v. Goldman, supra,* at p. 108.)

Williams's argument to the contrary is, like her statement of facts, brief. At just over one page, it reads in its entirety as follows: "In this case, even though the respondent was a conservatee, he retained his right to marry. Probate Code Section 1900 states that: 'The appointment of a conservator of the person or estate both does not affect the capacity of the conservatee to marry or to enter into a registered domestic partnership'. Thus, the presumption is that the conservatee has the capacity to get

married. Further, Section 2352.5 of the Probate Code strictly prohibits the conservator from withholding the consent of the conservatee to get married. In this case the court did not consider any direct evidence that the conservatee lacked the capacity to get married. In fact, the appellant was prepared to present eye witness testimony from the conservatee's family and friends that he entered into the marriage knowingly and intelligently and was of sound mind on the day of the wedding. [Citation.] However, for some unknown reason, the court refused to allow the appellant to present any witnesses or testimony that the respondent had the capacity to marry. [Citation.] Further, the court relied on hearsay evidence with regard to the respondent's state of mind. In this case, the conservator's [*sic*] were duty bound to overcome the presumption of a valid marriage by clear and convincing evidence that Mr. Mapp lacked the capacity to get married. The mere fact that Mr. Mapp was under a conservatorship is not enough. Direct medical testimony should have been heard, along with the appellant's witnesses, who attended the wedding." None of these arguments has merit.

First, Williams contends that the trial court improperly granted the petition on the ground that Mapp was subject to a conservatorship at the time of the marriage. She cites Probate Code section 1900, which provides: "The appointment of a conservator of the person or estate both does not affect the capacity of the conservatee to marry or to enter into a registered domestic partnership." While this is a correct statement of the law, it has no bearing here, where the court stated in its oral ruling and in the judgment that it was granting the petition on the ground that Mapp was of unsound mind at the time of the marriage.

Second, Williams claims the trial court "did not consider any direct evidence that the conservatee lacked the capacity to get married." This is contradicted by the record, in which it is clear that the court had before it Dr. Tse's 2007 letter stating that Mapp "has had progressive memory loss over the years and becoming more significant in the past 2-3 years with signs and symptoms of dementia," and his September 2010 capacity report in which he stated that Mapp suffered from "severe memory impairment" and lacked the

ability to make complex decisions. Williams does not explain how this is not "direct evidence," and she offered no medical opinion to the contrary.

Third, Williams argues that "for some unknown reason, the court refused to allow the appellant to present any witnesses or testimony that the respondent had the capacity to marry." Again, it is clear from the record this was not the case. The court questioned Williams at length about her relationship with Mapp, their marriage, what she knew about the 2010 conservatorship and when she knew it, what she knew about Mapp's mental health at the time of the marriage, the basis for her belief that Dr. Tse's capacity declaration was a "good report," and the basis for her belief that Mapp was of sound mind at the time of their marriage. The court also specifically asked Williams if she had "any other information" she could share with the court about why she believed Mapp had the mental capacity to consent to marriage on October 28, 2010.

Additionally, the trial court did not preclude Williams from presenting the testimony of any witnesses. During the October 5 hearing, a spectator—apparently, Joyce Gonzales—who was improperly injecting herself into the hearing was removed from the courtroom when she continued to speak after a warning by the court to remain quiet. If this was a witness Williams intended to call during the hearing, she should have raised this issue with the court. At no time during the hearing, however, did she tell the court she wanted to call a witness, despite the court's express request for "any other information" regarding Mapp's mental capacity on October 28, 2010.

Fourth, Williams claims the trial court "relied on hearsay evidence with regard to the respondent's state of mind." She does not identify what evidence she is referring to, and she asserted no hearsay objection below, thus forfeiting this argument on appeal. (*Stenseth v. Wells Fargo Bank* (1995) 41 Cal.App.4th 457, 462 ["[I]n order to raise the issue of the admissibility of evidence, a party must make a timely objection on a specific ground"]; *People v. Smith* (1986) 180 Cal.App.3d 72, 79 ["An appellate court is precluded from reviewing questions concerning the admissibility of evidence for the first time on appeal"]; Evid. Code, § 353.)

Williams asserts in her statement of facts that "the court insinuated that [she] was high or under the influence . . . ." While not raised as an issue in her argument section, we nevertheless address it to confirm that the court did no such thing. Rather, observing that Williams was having difficulty expressing herself, the court "just want[ed] to be sure" she was "able to understand everything [the court] was saying . . . ." Accordingly, it asked if she was "under the influence of anything" or whether she had a medical condition that was making it hard to articulate her thoughts. When she said no to the former and yes to the latter, the court inquired if she understood everything it was saying and everything that was happening in the proceeding. When Williams confirmed that she did, the court returned to the issue of the evidence regarding Mapp's mental capacity. The court's questioning was proper.

Finally, to the extent Williams contends the court erred in denying her motion for reconsideration, she failed to demonstrate any grounds for reconsideration pursuant to Code of Civil Procedure section 1008. While she claimed below to have located a new witness (apparently, Mapp's brother) and was seeking medical evidence that Mapp was of sound mind when they married, this was not new evidence that did not exist at the time of the October 5 hearing.

DISPOSITION

The judgment of nullity of marriage is affirmed.

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Richman, J.

We concur:

_____
Kline, P. J.

_____
Stewart, J.

Mapp v. Williams (A153058)